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E-filed on June 12, 2006

11 [Proposed] Attorneys for the Official Committee of Equity  
 12 Security Holders of USA Capital Diversified Trust Deed Fund,  
 LLC

## UNITED STATES BANKRUPTCY COURT

### DISTRICT OF NEVADA

15 In re:  
 16 USA COMMERCIAL MORTGAGE COMPANY,  
 Debtor.

Case No. BK-S-06-10725 LBR  
 Case No. BK-S-06-10726 LBR  
 Case No. BK-S-06-10727 LBR  
 Case No. BK-S-06-10728 LBR  
 Case No. BK-S-06-10729 LBR

17 In re:  
 18 USA CAPITAL REALTY ADVISORS, LLC,  
 Debtor.

Chapter 11

19 In re:  
 20 USA CAPITAL DIVERSIFIED TRUST DEED  
 FUND, LLC,  
 Debtor.

Jointly Administered Under  
Case No. BK-S-06-10725-LBR

21 In re:  
 22 USA CAPITAL FIRST TRUST DEED FUND, LLC,  
 Debtor.

### OST REQUESTED

Date: June 21, 2006

Time: 9:30 a.m.

Place: Courtroom #2

23 In re:  
 24 USA SECURITIES, LLC,  
 Debtor.  
 Affects:  
 25  All Debtors  
 USA Commercial Mortgage Company  
 USA Securities, LLC  
 USA Capital Realty Advisors, LLC  
 USA Capital Diversified Trust Deed Fund, LLC  
 USA First Trust Deed Fund, LLC

**EX PARTE APPLICATION FOR ORDER SHORTENING TIME TO HEAR THE  
APPLICATION BY THE OFFICIAL COMMITTEE OF EQUITY SECURITY HOLDERS  
OF USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC  
TO EMPLOY BECKLEY SINGLETON, CHTD.**

**TO THE HONORABLE LINDA B. RIEGLE, UNITED STATES BANKRUPTCY JUDGE:**

The Official Committee of Equity Security Holders of USA Capital Diversified Trust Deed Fund, LLC (the “USA Diversified Committee”), by and through its proposed Special (Nevada) Bankruptcy Counsel, Beckley Singleton, Chartered (“Beckley”), has filed its “Application by the Official Committee of Equity Security Holders of USA Capital Diversified Trust Fund, LLC, to Employ Beckley Singleton, Chartered” (the “Beckley Application”). This ex parte application is made and based upon Fed. R. Bankr. P. 9006, the following memorandum of points and authorities and Declaration of Anne M. Loraditch (the “Loraditch Declaration”), the Attorney Information Sheet filed contemporaneously herewith, and the papers and pleading on file herein, judicial notice of which is respectfully requested.

WHEREFORE, the USA Diversified Committee respectfully requests that this Court grant this ex parte application and issue an order shortening time to hear the Beckley Application at the Omnibus Hearing on June 21, 2006, and for such other and further relief at the Court deems just and proper.

Respectfully submitted this 12th day of June 2006.

## BECKLEY SINGLETSON, CHTD.

By /s/ Anne M. Loraditch  
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1                   MEMORANDUM OF POINTS AND AUTHORITIES

2                   Bankruptcy Code section 105 allows this Court to issue such orders as are necessary to  
 3 carry out the provisions of this title. 11 U.S.C. § 105. Rule 9006(c)(1) of the Federal Rules of  
 4 Bankruptcy Procedure (“Bankruptcy Rules”) generally permits a bankruptcy court, for cause  
 5 shown and in its discretion, to reduce the period during which any notice is given in accordance  
 6 with the Bankruptcy Rules. Bankruptcy Rule 9006(c)(1) provides as follows:

7                   Except as provided in paragraph (2) of this subdivision, when an  
 8 act is required or allowed to be done at or within a specified time  
 9 by these rules or by a notice given thereunder or by order of court,  
 the court for cause shown may in its discretion with or without  
 motion or notice order the period reduced.

10 11 U.S.C. § 105.

11                   Local Rule 9006 provides further authority for shortening the time for a hearing.  
 12 According to Local Rule 9006(b), every motion for an order shortening time must be  
 13 accompanied by an affidavit stating the reasons for an expedited hearing. As set forth in the  
 14 Loraditch Declaration, *infra*, there is a compelling reason for an expedited hearing on the Beckley  
 15 Application.

16                   Local Rule 9006 requires the moving party to submit an Attorney Information Sheet  
 17 indicating whether opposing counsel was provided with notice, whether opposing counsel  
 18 consented to the hearing on an order shortening time, the date counsel was provided with notice  
 19 and how notice was provided or attempted to be provided. An Attorney Information Sheet is  
 20 being filed contemporaneously with this ex parte application.

21                   For the reasons set forth in the Loraditch Declaration to follow, the USA Diversified  
 22 Committee asks that the Court extend the deadline for filing an opposition to the Beckley  
 23 Application, if necessary, to June 15, 2006, two business days after the filing of the Beckley  
 24 Application and six days before the Omnibus Hearings set for June 21st, in order to afford all  
 25 parties in interest sufficient opportunity to review and formulate a position on the Beckley  
 26 Application.

27                   With an extended deadline afforded to parties in interest for filing oppositions to the  
 28 Beckley Application, the USA Diversified Committee also asks for the opportunity to file a reply

1 no later than the close of business on June 19, 2006, two business days after such oppositions as  
2 may be filed and two days prior to the hearing on June 21st.

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## **DECLARATION OF ANNE M. LORADITCH**

I, Anne M. Loraditch, hereby declare as follows:

1. I am over eighteen years of age and have personal knowledge of the facts set forth herein, and if called as a witness, would testify competently with respect thereto from my own personal knowledge except as otherwise stated.

2. I am an Associate of Beckley Singleton, Chartered. This declaration is submitted in support of the USA Diversified Committee's<sup>1</sup> ex parte application to shorten time for hearing the Beckley Application.

3. On April 13, 2006, USA Capital Diversified Trust Deed Fund, LLC (“USA Diversified”), USA Commercial Mortgage Company (“USA Mortgage”), USA Securities, LLC (“USA Securities”), USA Capital Realty Advisors, LLC (“USA Realty”) and USA Capital First Trust Deed Fund, LLC (“USA First” and, collectively with USA Mortgage, USA Securities, USA Realty and USA Diversified, the “Debtors”) filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code, which cases are being jointly administered as captioned above.

4. On May 10, 2006, the Office of the United States Trustee (the "US Trustee") appointed the following four committees in the Debtors' Cases:

- (a) The Official Committee of Holders of Executory Contract Rights Through USA Mortgage (“Direct Lenders’ Committee”);
  - (b) The Official Unsecured Creditors Committee for USA Mortgage;
  - (c) The Official Committee of Equity Security Holders of USA First; and
  - (d) The USA Diversified Committee.

5. The Direct Lenders' Committee initially sought to retain the law firm of Stutman, Treister and Glatt ("ST&G") collectively with one or both of the fund committees. However, on May 23, 2006, the Direct Lenders' Committee determined that joint representation was not in its

<sup>1</sup> Terms not otherwise defined herein shall have the same meaning ascribed to them in the Beckley Application.

1 best interest and retained Gordon & Silver, Ltd. late in the evening on May 23, 2006. This Court  
2 has since approved such employment.

3       6. Thereafter, the USA First Committee retained ST&G, leaving the USA Diversified  
4 Committee without counsel. This Court has since approved the employment of ST&G as counsel  
5 for the USA First Committee.

6       7. On June 1, 2006, the USA Diversified Committee met telephonically and decided  
7 to engage Orrick, Herrington & Sutcliffe LLP ("Orrick") as its bankruptcy counsel. The USA  
8 Diversified Committee's application to employ Orrick as bankruptcy counsel is pending before  
9 the Court.

10      8. On June 9, 2006, the USA Diversified Committee met telephonically and decided  
11 to engage Beckley as its Special (Nevada) Counsel. The USA Diversified Committee has filed  
12 the Beckley Application seeking this Court's approval of its retention of Beckley.

13      9. An Omnibus Hearing has been scheduled for June 21, 2006, at which time many  
14 matters will be heard. As this Court is well aware, the Debtors' Cases are moving forward at an  
15 extraordinary pace and, therefore, it is critical that the USA Diversified Committee's interests be  
16 represented. As such, it is necessary that the Beckley Application be heard at the June 21st  
17 hearing.

18      10. Beckley only very recently entered this case, and the Committee filed the Beckley  
19 Application at the earliest possible opportunity. I believe there is good cause for the Court to  
20 extend the deadline for filing an opposition to the Beckley Application, if necessary, to the close  
21 of business on June 15, 2006, two business days after the filing of the Beckley Application and  
22 six days before the Omnibus Hearings set for June 21st, in order to afford all parties in interest  
23 sufficient opportunity to review and formulate a position on the Beckley Application. The  
24 Debtors and other Investor Committees specifically requested that accommodation, and I believe  
25 that allowing two days after the Beckley Application is filed for responses is reasonable and  
26 appropriate.

27      11. With an extended deadline afforded to parties in interest for filing oppositions to  
28 the Beckley Application, I believe it to be equitable for the Court to permit the USA Diversified

Committee the opportunity to file a reply no later than the close of business on June 19, 2006, two business days after such oppositions as may be filed and two days prior to the hearing on June 21st.

12. The Court's indulgence in this instance is warranted because the USA Diversified Committee moved as promptly as possible to retain Orrick as its bankruptcy counsel and Beckley as its Special (Nevada) Counsel when it was left without counsel due to the objections filed by the Direct Lenders' Committee and the US Trustee to ST&G's employment.

13. Moreover, given the nature of the Debtors' Cases, the Committee's interests are best served by having Judge Riegle rather than a visiting judge decide any issues involving the Beckley Application. Beckley should not be forced to wait until the next Omnibus Hearing date on July 25, 2006, to find out if its retention as the Committee's Special (Nevada) Counsel is approved since by then Beckley will have spent hundreds, if not thousands, of hours on these matters.

14. Counsel for the Debtors and counsel for two of the three other Investor Committees have agreed that the Beckley Application may be heard on shortened time as of the filing of the request for an order shortening time.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

DATED this 12th day of June 2006.

/s/ Anne M. Loraditch

Anne M. Loraditch